

MINORS – OUTPATIENT MH TREATMENT

REVIEW FOR MINORS 14 OR OLDER

(§ 51.14, Wis. Stats.)

“Outpatient mental health treatment” [OPMHT] means treatment and social services for mental illness, except 24-hour care, treatment and custody.

Each juvenile court must designate a Mental Health Review Officer (MHRO).

FILING PETITION FOR REVIEW BY MHRO

A minor 14 or older (or someone on their behalf) can petition the MHRO in the county where the minor’s parent/guardian resides, for a review of the refusal of the minor’s parent/guardian to provide informed consent for OPMHT. [See § 51.61(6), Stats.]

For a minor whose consent for treatment was provided by parent/guardian despite the minor’s refusal, the treatment director of the OP clinic must file a petition for review of the informed consent by the MHRO.

A petition must attach any professional evaluations and contain:

- The name, address, birth date of the minor
- Names, addresses of minor’s parents or guardian
- Facts substantiating the petitioner’s belief that the minor needs or does not need OPMHT
- Any available information substantiating the appropriateness of the treatment sought and that is the least restrictive treatment consistent with the minor’s needs

The court must ensure that any “necessary assistance” is provided to the petitioner.

The MHRO must inform the county. The county may make recommendations to the MHRO as to the need for, appropriateness, and availability of OPMHT.

If the minor requests and the MHRO determines it’s in the minor’s best interests, a petition for a court review (skipping the MHRO) can be filed.

HEARING BY MHRO

Within 21 days of the filing, the MHRO must hold a hearing on the refusal or inability of the minor’s parent/guardian to provide consent, or the provision of such consent despite the minor’s refusal. There must be 96 hours prior notice of the hearing.

MHRO HEARING OUTCOMES

If, following the hearing, and taking into account any county recommendations, the MHRO finds **all** of the following, the MHRO can “overrule” the informed consent requirements of § 51.61(6), Stats.:

- The informed consent of the parent/guardian is unreasonably withheld or the refusal of the minor to consent is unreasonable
- The minor is in need of treatment
- The treatment sought is appropriate and least restrictive
- The proposed treatment is in the best interests of the minor

The findings of the MHRO must be in writing.

The minor and parent/guardian must be informed of the right to **judicial review**.

No one who has provided treatment or services to the minor may act as the MHRO for that minor.

JUDICIAL REVIEW

Within 21 days after the MHRO’s ruling (or if the MHRO’s review was skipped, as noted above), the minor (or someone on the minor’s behalf) may petition a court under Chs. 48 or 938 (in the county where the parent/guardian resides) for a judicial review.

The same requirements as noted above apply to this petition. If the minor has refused to provide consent, that must be noted on the face of the petition. If such a notation is made, the court must appoint counsel for the minor at least 7 days prior to the hearing. If it is the parent/guardian who refused consent and the minor is unrepresented, the court must appoint counsel for the minor.

The hearing must be held within 21 days after the petition is filed. There must be 96-hour advance notice of the hearing.

The rules of civil evidence apply. A record, including written findings of fact and conclusions of law, must be kept. Findings must be based on evidence that is clear, satisfactory and convincing.

JUDICIAL HEARING OUTCOMES

If, following the hearing, and taking into account any county recommendations, the court finds **all** of the following, the court can “overrule” the informed consent requirements of § 51.61(6), Stats.:

- The informed consent is unreasonably withheld
- The minor is in need of treatment
- The particular treatment sought is appropriate and least restrictive
- The treatment is in the best interests of the minor

The finding or order made by the court is **not** a finding of **mental illness**.

APPEALS

Anyone “aggrieved” and “directly affected” by the court’s determination may appeal to the Court of Appeals.

MENTAL HEALTH REVIEW OFFICERS

The Department of Health and Family Services is required to post a list of Mental Health Review Officers designated by the courts. That list is available on this site.

Document prepared by DHFS Client Rights Office.
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